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ONE HUNDRED NINTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

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July 1, 2005

The Honorable Alberto Gonzales
 Attorney General of the United States
 U.S. Department of Justice
 950 Pennsylvania Avenue, N.W.
 Washington, DC 20530

Dear Attorney General Gonzales:

As you are aware, the Committee on the Judiciary has been holding a series of oversight hearings to examine the use by the Department of Justice of the law enforcement authorities granted by the USA PATRIOT Act. These hearings are providing a great deal of information that will be helpful as we consider reauthorizing the expiring provisions of the Act, but several issues were raised during these hearings for which additional information from the Department was requested by several of the Minority Members of the Committee. So that you are able to identify which questions raised in the hearing still are outstanding, the excerpts in which the questions can be found are attached. As the Chairman of the Committee, I would appreciate your responding to these questions.

Please provide your responses to Beth Sokul, Special Counsel on Homeland Security and Terrorism, in 2138 Rayburn House Office Building, and Greg Barnes, Counsel to Ranking Member Conyers, in B-336 Rayburn House Office Building, by July 8, 2005.

Sincerely,



E. JAMES SENSENBRENNER
 Chairman

Hearing #1, April 6, 2005
Opening Patriot Act Reauthorization/Oversight
Alberto Gonzales

pp.26-27

Mr. CONYERS. Well, let me just ask you, can we on this committee cooperate with you to open up those Mayfield files so we can learn exactly how the PATRIOT Act was used in this case?

Attorney General GONZALES. Again, Congressman, this matter is in litigation so I'm likely to be limited about what information I can share with you, but I'm happy to go back and see what we can do to provide information to the committee in connection with this case.

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Mr. SMITH OF TEXAS. . . . Could you point to the number of individuals, the number of would-be terrorists who might have been detected and apprehended? Can you point to terrorist rings that might have been disrupted or broken up to substantiate that statement [that the Patriot Act is working and has prevented additional terrorist attacks]?

Attorney General GONZALES. It's kind of hard to sort of prove a negative....

pp.38-40

Mr. SMITH OF TEXAS. General Gonzales, how many convictions have you obtained?

Attorney General GONZALES

I don't know, but I can get that information to you.

pp.60-61

Ms. JACKSON LEE. . . .One, would you be able to provide the numbers of Pakistani who were required to sign up on the registration list in the early part of 2002-2003, the numbers of them? . . . How many terrorists were found off of that list?

Attorney General GONZALES. I don't have the information on Pakistan. I'll see what I can learn and see what information can be provided.

pp. 60-61

Ms. JACKSON LEE. . . . [D]o you think it's viable that we should have as a provision of any PATRIOT Act the removal of one's natural born citizenship that is protected under the 14th Amendment?

Attorney General GONZALES. . . . In terms of removal of citizens, I don't recall the specific provision you're referring to in what was, quote, PATRIOT --

Ms. JACKSON LEE. Five-oh-one.

Attorney General GONZALES. PATRIOT Two, but I'd be happy to look at it and give you my views about it.

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Mr. SCOTT. . . . Now, are you willing to limit this power [FISA roving wiretaps] to terrorism?

Attorney General GONZALES. Am I willing to limit Section 206 to terrorism?

Mr. SCOTT. Right.

Attorney General GONZALES. Mr. Scott, I would have to look at that, and I'd be happy to consider that. . . .

pp. 73-75

Mr. SCOTT. . . . Shouldn't we require that you ascertain that the target is actually the one using the phone before you can start listening in?

Attorney General GONZALES. I would have to look at that, Mr. Scott.

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Mr. SCOTT. . . . If the purpose of the warrant -- of getting a FISA wiretap is something other than foreign intelligence, what is it? . . .

Attorney General GONZALES. Mr. Scott, I would want to study this and get back to you on this.

**Hearing #6, April 28, 2005
Section 218
Fitzgerald, DOJ**

p.49

Ms. JACKSON LEE. But do you know if they've answered any of the problems dealing with the 70 misrepresentations?

p.51

Mr. CHABOT. The gentlelady's time has expired. I think the gentleman on his time is going to ask for a follow-up, because we're already on seven minutes on yours.

Ms. JACKSON LEE. If . . . Mr. Fitzgerald can answer, I'd appreciate it.

Hearing #7, May 3, 2005
Sections 201, 202, 223 & 213
Sullivan, DOJ
Rosenberg, DOJ

p.41

Mr. SCOTT. What is the sanction for not letting them know?

Mr. ROSENBERG. . . . I'm not an expert here, but I imagine there would be some civil remedy.

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Mr. SCOTT. Thank you. Now, Mr. Barr, in your testimony, you ask several questions about what we know about the use of 213. And I am going to ask Mr. Rosenberg, do you know how many times Section 213 has been used in the 155 cases? How many of those were terrorist cases? How many we used against U.S. citizens? How many times the secret warrants have actually led to prosecutions? And how many of those were terrorism cases? And what happens to the contents of such searches if no charges are brought? . . .

Mr. ROSENBERG. I cannot answer all of those off the top of my head.

Mr. SCOTT. If you could provide us with that information.

Hearing #8 , May 5, 2005
Section 212
Moschella, DOJ
Hulon, FBI

p.33

Mr. DEMPSEY. . . . In 2002 in the Homeland Security Act, this committee mandated a one-year report from the Justice Department on disclosures of content under Section 212. That report was due on November 25, 2003, and as far as I know, it hasn't been submitted yet.

p.43

Mr. FLAKE. According to Judge Lambert, a FISA court did bar one FBI agent from ever appearing before the court again for filing a series of misleading affidavits. Were you aware of that? . . . Okay. Do you know of any action that has been taken against this agent?

Mr. MOSCHELLA. I'd have to check into that.

Mr. FLAKE. Could you get back to my office on that?

Mr. MOSCHELLA. Yes, sir.

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Mr. LUNGREN. I don't think I heard an answer from you about whether or not the administration would be opposed to considering the suggestion I made [having a magistrate judge take a look after the fact to see if in fact it was appropriate and to make a judgment as to whether or not someone ought to be given notice that their information has been viewed by the government.]

Mr. MOSCHELLA. We would certainly consider it.

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Ms. JACKSON LEE. . . . This question is to just ask you to provide for us the steps that the Department of Justice has taken to ensure the more than 70 errors and misrepresentations regarding information sharing, unauthorized dissemination of information which are described in the Foreign Intelligence Surveillance Court's 2002 opinion order so that we know it will not be repeated.

Hearing #9, May 10, 2005
Abuses and material support
Glenn Fine, DOJ
Gregory Katsas, DOJ
Barry Sabin, DOJ

pp. 70 - 71

Mr. GOHMERT. I thank you, Mr. Chairman. Mr. Sabin, let me follow up on a matter of previous questioning, and ask you, is there any group that is operating, or allegedly operating, out of Saudi Arabia, that has been designated as a terrorist organization?

Mr. SABIN. Specific foreign terrorist organization? I mean, there are groups – there are individuals of groups in that country that – al Qaeda representatives, and the like. Off the top of my head, of the 40 groups that have been designated, I think the answer is no. But I can check, and get back to you on that.

P. 76

Mr. DELAHUNT. . . . I sent a letter recently to the Attorney General, Mr. Gonzales. I guess this would be under the IIEPA. . . . I've asked Attorney General after Attorney General, what is the status of an individual that I believe to still be in the United States, by the name of "Emanuel Todo Constant," who is the leader of the FRAP, a foreign terrorist organization if there ever should be one. Is he on – if you know, is he on the – you know, the terrorist - the identified terrorist list?

Mr. SABIN. I'll look into it and get back to you, sir.

Mr. DELAHUNT. . . . You don't. And then, there's an individual who recently, yesterday was on the front page of the New York Times, who allegedly was responsible in the late 1970s for the killing of some 73 innocent civilians aboard a Cuban airline, by the name of "Luis Posada Carriles"; . . . Is he on the -- is he an identified terrorist on the list?

Mr. SABIN. . . . What I'm saying is, I can go back; and we can provide you that, transparently.
